

December 2, 2002  
CB-50 (Amended)

SUBJECT: AMENDED FILING PROCEDURES FOR PROPERTY AND CASUALTY  
INSURANCE COMPANIES

This bulletin is a P&C rate and forms filings manual that contains forms and instructions for the preparation of filings for compliance with the procedures of the Nebraska Department of Insurance. This bulletin supersedes prior versions of CB-50.

The explanatory material has been substantially revised and the filing forms have been reduced. These changes arise from recent legislative changes to the Rate and Form Act. These changes moved commercial lines rate regulation to a liberal version of "file and use." Another law change requires that notifications be given to private passenger auto policyholders showing the location used to determine the rate and if credit scoring was used to determine the premium charged.

The Nebraska Property and Casualty Filings Manual should be supplied to all company personnel responsible for submitting filings to the Department.

Those responsible for insurer filings will also be interested in the Nebraska "Agents and Underwriters Manual". This "manual" explains a number of items in greater detail, including exemptions relating to multistate commercial policyholders and exempt commercial policyholders. It contains copies of three relevant P&C rules and the rate & form law as appendices. Copies may be obtained from <http://www.nol.org/home/NDOI/p&c/guidelin.htm>.

Any questions concerning this bulletin should be directed to the Property/Casualty Division.

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***CB-50***  
***Filings Manual for Nebraska***  
***Property and Casualty Insurance Lines***  
  
***for the***  
  
***Nebraska Department of Insurance***



## TABLE OF CONTENTS

Section Number	Subject
1	Introduction
2	General Filing Submission Instructions
3	Filing Procedures for Company Groups
4	“Prior Approval” or “File and Use” – Which Applies?
5	“Prior Approval” or “File and Use” – A Table to Help You
6	Policy Form Filings
7	Rate Filings Generally
8	Nebraska’s Version of “Prior Approval”
9	Nebraska’s Version of “File and Use”
10	Filing Forms Required With Filings
11	Additional Documentation Submitted With Rate Filings
12	Excess Coverage Rates, “Guide (a)” Rates, Etc.
13	Consent-to-Rate Procedures
14	Minimum Premium Ratemaking
15	Public Access to Rate and Form Filings
16	PP Auto Territorial Filing Requirements
17	Notifications to be Given PP Auto Policyholders
appendix	see below

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The appendix contains –

**NEBRASKA FILING FORM R1** – This is applicable for all rate filings except for rule or manual changes that lack appreciable rating impact.

**NEBRASKA FILING FORM R2** – This form must also be completed whenever a filing contains rate or rule changes.

**NEBRASKA FILING FORM F1** – This form must be completed whenever a filing contains new or revised policies or forms.

**NEBRASKA CONSENT-TO-RATE FORM** – This is a sample or “advisory” form that insurers can use for consent-to-rate submissions. While consent-to-rate submissions are required, the usage of this specific form is optional.

## 1. Introduction

This manual has been prepared to identify P&C forms and rates that must be filed, and to eliminate uncertainties regarding the information that must be filed in support of these filings. Utilization of this manual should reduce the time needed to review most filings by eliminating the need to request additional information from the filer and/or do other research.

**Please see that all persons responsible for filings in Nebraska are familiar with and have access to a copy of this manual.**

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## 2. General Filing Submission Instructions

All filings must include the following:

- (a) Filing transmittal forms;
- (b) Background information (i.e., loss development, trend, market analyses, etc.) necessary to explain and justify the data contained in the filing transmittal forms;
- (c) A self-addressed envelope with sufficient postage and large enough to contain copies of all material to be returned to the filer.
- (d) The name of the company for which the filing is made, and the name and mailing address of the person to which correspondence should be sent.
- (e) **Two copies of all material; one complete copy will be returned to the filer as acknowledgment of the final disposition of the filing.**
- (f) Nebraska's statutes do not contain filing fees for forms or rates. However, our laws do require retaliation and if your state of domicile requires filing fees, the comparable filing fee must accompany your submission.

In addition, we strongly encourage filers to provide an e-mail address. This will allow the Department to use e-mail for most queries and can substantially reduce turnaround time. A telephone number (toll free preferred) and fax number for the filer may also allow the Department to handle matters in a quicker fashion.

With new programs and extensive revisions of existing programs, it is preferred that filings of rates and forms be made at the same time whenever possible.

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## 3. Filing Procedures for Company Groups

Property and casualty groups utilizing common underwriting facilities may use a group filing procedure. Under this procedure, groups may name a lead company and the Department will

keep physical copies of your forms and rates in the lead company only. The Nebraska Affiliation and Filings Summary for each company will show which of your member companies utilize each program. Minor rate or form differences between companies will be noted in the individual program files. This procedure applies even when a particular program is not applicable to the lead company.

It is helpful for companies to utilize this procedure when possible, because it substantially reduces the volume of paper that we must keep. You are urged to contact this Department's Property/Casualty Division should you have any questions in this regard.

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#### **4. “Prior Approval” or “File and Use” – Which Applies?**

In general:

- (a) Personal lines rates and forms are subject to prior approval.
- (b) Commercial lines forms are also subject to prior approval, but commercial lines rates other than workers’ compensation and medical professional are subject to a relatively liberal “Nebraska version” of file and use.

The table on the next page (section 5) shows the filing status by line; sections 6 and 7 provide additional information and other caveats and limitations. Don’t look at one without looking at the other. In the table, various footnotes refer to references in sections 6 and 7, the forms and rates sections, respectively. For instance, a reference to “6(a)” means that you should look to subsection (a) in the forms section (section 6). Similarly, a reference to “7(c)” indicates that you should look at subsection (c) in the rate section (section 7).

### 5. “Prior Approval” or “File and Use” – A Table to Help You

Line or type of reinsurance	Forms		Rates		
	Prior Approval	Not Subject to Act	Prior Approval	File and Use	Not Subject to Act
Aircraft (except workers’ compensation)	x				x
Commercial lines insurance not otherwise shown on this table	x			7(c)(d)	
Crop insurance	x		x		
Property, glass and marine written by domestic assessment associations	x				x
Farm and ranch insurance	x		x		
Financial guaranty (except loss of value for motor vehicles)		6(c)			x
Medical professional liability	x		x		
Ocean marine		x			x
Personal lines	x		x		
Reinsurance		6(b)			x
Surety		6(d)			7(e)
Warranties and service contracts, except auto service contracts		x			x
Auto service contracts		6(f)			x
Workers’ compensation, other than excess & large deductible WC	x		x		
Excess & large deductible WC	x			7(f)	

*Please note that this table should be studied in conjunction with the next two sections. Neither this table nor the next two sections should be viewed on a stand-alone basis, because not all lines of insurance are covered in both places.*

## 6. Policy Form Filings

Nebraska is a “prior approval” state for both personal and commercial P&C policies, certificates, forms and endorsements. Subject to a number of exceptions, all P&C policies, certificates, forms and endorsements must be filed with the Department and must conform to the statutes, opinions, and guidelines applicable to Nebraska insurance policies. Exceptions to the requirement of policy form filing include:

- (a) Insurers do not need to submit additional copies of forms and endorsements that an advisory organization has filed on their behalf. When an insurer elects to use the wording of a form filed on its behalf by an advisory organization, but reprints the forms using a different logo or form number, the “new” forms thus created also do not need to be filed. Instead, a record of the company’s renumbered forms and the corresponding advisory organization’s form numbers must be maintained by the company in the event the Department requests that information. Please be sure that you understand the applicability of advisory organization filings to you. The fact that you purchase manuals or forms from an advisory organization does not necessarily mean that these items have been filed on your behalf. If you have questions regarding your status, please check with the advisory organization.
- (b) Reinsurance contracts are exempt from filing, except as provided in 44-7525 for joint reinsurance pools.
- (c) Financial guaranty insurance as defined in subdivision (19) of section 44-201 is exempt from filing, except that filings must be made for financial guaranty coverage that covers the loss of value for motor vehicles leased or sold on credit to private parties.
- (d) Contracts of suretyship are exempt from filing, except that advisory organizations must file all surety forms that they develop on behalf of their members or subscribers.
- (e) Policy forms and endorsements manuscripted and used for only a single commercial risk are exempt. Note that this exception does not apply to any form or endorsement that the insurer has filed in Nebraska or elsewhere. Any such forms must be filed if they are offered or used for a second account in Nebraska.
- (f) Filing of warranties and service contracts is not required by the P&C rate and form law, but automobile warranty and service contracts must still be filed with the Department prior to their use in accordance with section 44-3522. Chapter 44, Article 35 provides that all such contracts must be “full reimbursement” contracts and that, “the issuer of the policy will pay on behalf of the motor vehicle service contract provider all sums which the provider is legally obligated to pay in the performance of its contractual obligations under the motor vehicle service contracts issued or sold by the provider.” This section does not, however, provide for the Department to review such filings for approval. As such, while such filings should be made much like any other filing of policy forms (explanation, two copies and a return envelope), the filing will merely be acknowledged.



- (g) Applications for insurance do not need to be filed unless the applications also serve as a binder or they become a warranty to or otherwise become a part of the policy.
- (h) All “certificates of insurance” that extend coverage to a person or entity must be filed. For example, “certificates” used in conjunction with “master contracts” to indicate the extension of coverage to individual persons or entities must be filed. “Certificates of insurance” that do not provide coverage, but are merely used to provide evidence of insurance (e.g., as are commonly used in conjunction with construction projects), do not need to be filed. “Renewal certificates” need to be filed. A bit of advice – be sure that “renewal certificates” provide all the information that is found on the policy declaration.
- (i) Rule 75 (technically, Chapter 75) provides certain exemptions for policy forms that are not offered or sold to Nebraska-based commercial policyholders, but that may apply to Nebraska locations owned by a risk that is headquartered in a state other than Nebraska.

When revising currently approved forms, a comparison of the existing form or rule to the proposed form or rule with all changes clearly marked must be provided. **A revised listing of the approved forms and manual pages for a program must be included so the Department can verify that its files are updated.** Form listings should include form number, title, and edition date. Manual page listings should include page numbers and edition date.

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## 7. Rate Filings Generally

Nebraska is a prior approval state for personal lines rates; most commercial lines rates are subject to “file and use,” and rate filings are not required at all for some types of P&C insurance. In addition to the various exemptions and exceptions shown on “the table,” rate filings are not required for the following:

- (a) Rates for limits and classes accorded “guide” or “Guide (a)” treatment do not need to be filed except when an advisory organization promulgates them on an advisory basis. Please note that filings must include a list of all limits and classes that are intended to be accorded “Guide (a)” treatment. Approval of the list is not automatic, since it is not uncommon for filers to include some classifications that are generally class rated.
- (b) Exemption applies to rates for inland marine risks that by general custom of the business are not written to manual rates. Types of inland marine risks for which an advisory organization does not make rates or loss costs are not necessarily exempted from rate filing requirements. The classes of inland marine insurance that have traditionally been exempted from the filing of manual rates are also exempted in Nebraska, but new classes are not automatically exempted. Please check the Department’s website at <http://www.nol.org/home/NDOI/p&c/guidelin.htm> for a current listing of filed and non-filed inland marine classes.

Commercial lines rates are subject to “file and use” except for workers’ compensation, medical professional liability, and farm & ranch-related insurance. The exceptions to this statement are:

- (c) Commercial lines loss costs and manuals filed by an advisory organization are subject to prior approval.
- (d) Prior approval applies to insurance that covers risks of a personal nature when covered by policies written for business entities, if the costs for the insurance are charged to individuals. But this proviso does not apply when the coverage is provided by the business to individual consumers without a separate charge.

Rate filings are not required in the following situations:

- (e) Insurers don’t need to file surety rates or adhere to the rates or loss cost multipliers contained in the manuals that they maintain for internal use. Surety loss costs developed by advisory organizations, however, must be filed for approval. This does not mean that an advisory organization cannot provide copies of surety loss costs to insurers prior to their approval by the Department of Insurance, but the loss cost filing by the advisory organization must be made in a timely fashion and insurers must be informed of those loss costs that have been approved and those for which approval is pending.
- (f) Except as may be developed by advisory organizations, rates or factors applying to excess workers’ compensation insurance (written for approved self-insureds) and so-called large deductible workers compensation insurance (written for employers that are not approved self-insureds) need not be filed. Be advised, however, that workers’ compensation law places limitations upon the writing of so-called large deductible insurance. The deductible amount cannot be less than 40% of the policyholder’s non-deductible premium, and it also cannot be less than \$50,000. Thus, so-called large deductible insurance cannot be written for policyholders with non-deductible premiums less than \$125,000.

When filing loss cost multipliers, a separate manual page must be included with the filing since cover letters, filing forms, and other documentation are filed in different places. **Rates or factors contained solely in cover letters or in accompanying documentation are not acceptable.** If loss cost pages are provided, then final rate pages (developed using the loss cost multipliers) are not required; however, companies must submit a manual page showing loss cost multipliers, minimum premiums, waiver of premiums, and any manual exceptions. If manual rate pages are filed, they must also show the loss cost multiplier used to develop the rates.

## 8. Nebraska’s Version of “Prior Approval”

In Nebraska, “prior approval” applies to all form filings. It also applies to personal lines rates and to rates for a few commercial lines. (See sections 5, 6 and 7 for further details.)

Nebraska's version of prior approval is very "standard." Forms and rates to which prior approval applies cannot be used before they have been filed with and approved by the Department of Insurance. Rates must not be excessive, inadequate or unfairly discriminatory. There is a 30-day deemer provision that can be extended up to another 30 days upon notification by the Department.

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## **9. Nebraska's Version of "File and Use"**

In Nebraska, "file and use" applies to rates for most commercial lines. Notable exceptions include workers' compensation, medical professional liability and farm and ranch coverages. (See sections 5 and 7 for further details).

Nebraska's version of "file and use" is not so "standard." Many insurers treat the "file and use" laws of some states on a de facto prior approval basis. Nebraska's law contains some relatively unique provisions designed to make it very reasonable for insurers to file their rates, start using them, and not need to worry about adverse repercussions.

As with prior approval, "file and use" filings must contain an effective date. The difference is that this effective date can be the same as the day that the Department receives the filing (but not sooner). Once received, the Department will review the filing within 30 days for completeness and compliance with law. As with prior approval, this 30-day period can be extended another 30 days upon notification by the Department.

If the Department finds that the rates that have been filed do not meet statutory standards, then the Department will disapprove. This disapproval will only apply after another 30 days, however. This provision is designed to soften the impact of any subsequent disapproval so that insurers will not need to treat Nebraska's "file and use" law as a de facto prior approval law.

In addition, insurers should want to use Nebraska's law on a "file and use" basis because there are very few reasons for a well-formed rate filing to be disapproved. It is important that insurers that are reluctant to make rate filings on a "file and use" basis understand these differences and the few things that might cause problems. The standards for "file and use" are different and much more limited than for prior approval:

- Excessive rates – The Department cannot disapprove "file and use" rate filings for excessive rates, either at the time of filing or later – unless. The "unless" is pretty remote. If the Department has a hearing and finds that competition is not an adequate regulator of rates for a market, then the Department can hold hearings on rates on file for individual insurers and subsequently disapprove them. The philosophy underlying "file and use" is that competition will effectively prevent all but isolated instances of rates that are higher than indicated, and that insurers that attempt to charge too-high rates will be unsuccessful at writing significant amounts of business.
- Unfair discriminatory rates – A very limited standard for unfair discrimination applies for "file and use" lines of insurance. The only way to run afoul of the standard is to attempt to

discriminate based on race, ethnic background or religion. In the course of over 20 years, we have only seen a couple of filings that proposed to do that. In other words, we can't disapprove simply because an insurer files to discriminate based on something that we don't really think makes a difference. We can't disapprove if an insurer files for a 25% differential based on a factor that we think is only worth 10%. (The "unless" for the standard of unfair discrimination and its underlying philosophy are the same as for the standard of excessiveness. We have the ability to revert to prior approval if we find competition to be lacking in a market.)

- Inadequate rates – Nebraska has a very limited standard for inadequacy (this applies to all lines of insurance, even prior approval lines). For a rate to be considered inadequate, it must be low enough that we would expect the insurer to lose money on it, even after full consideration of investment income, and it must either (a) be expected to endanger the solvency of the insurer that is charging it, or (b) be expected to significantly diminish competition in the marketplace. In practice, the instances where this standard have come into play have been very rare.

For an insurer, it almost seems too good to be true – like there is almost no reasonably imaginable way to get a filing disapproved. Unfortunately (if you're an insurer), that is not true. The following list will tell you how to get a "file and use" filing disapproved in Nebraska:

- File schedule rating (by any name) or any other subjective rating schemes. Nebraska law provides  $\pm 40\%$  flexibility in lieu of various schedule rating plans that existed prior to January 1, 2001. It is true that the Department did not require insurers to physically withdraw schedule rating plans on file prior to 1/1/01, but Chapter 74 required insurers to stop using them. When manual pages containing schedule rating plans are refiled, we expect insurer to remove references to them. Thus, newly-filed pages containing schedule rating plans will be disapproved.
- File multiple programs in the same insurer and don't provide clearly objective criteria to tell us which program applies to which policyholder. We're not talking about "underwriting guidelines" here – those written and unwritten guidelines that influence an underwriter's decision whether to provide coverage. Rather, we're talking about the rules that tell us whether a risk – if written – will go into program A, program B or program C. Please note that we don't require the filing of rules that will tell us whether a group will use insurer A, insurer B or insurer C, even though different rates may be on file with different insurers. (Those with experience and a good memory will note that this is different than Department practice prior to 1/1/01.)
- File rates and don't file data and justification for them. This may seem odd, as the Department will not disapprove a rate for being excessive and will very rarely disapprove a rate for being inadequate or unfairly discriminatory. The simple explanation is that the law requires that justification be filed. A more thorough explanation is that there are two reasons why this requirement is in the law. First, it is the most effective way for the Department to judge whether competition is an effective regulator of rates. As long as the rates that insurers

file are justified by insurers' experience, then the Department can be reasonably confident that competition is working. The second reason is that, in the absence of any requirement for the filing of justification, the ability of people to use the Department as a focal point of information is substantially reduced.

The nature of the justification required will vary by line and by the market penetration of the insurer. A small or new insurer is primarily motivated by the rates of its competitors and its sense of the results being produced by that line of insurance in the marketplace. Slicing and dicing the data of an insurer with \$3,289 of Nebraska experience won't tell us much. But an insurer with significant market penetration will be motivated in large part by its experience, and we want to see to a professional rate filing developed from that experience, even if the insurer ultimately selects higher or lower rates than are indicated by its analysis.

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## **10. Filing Forms Required With Filings**

As is outlined in the appendix, there are mandatory filing forms applicable to all classes of rate filings. (Companies are still encouraged to submit their normal rate filing format in addition to the mandatory Nebraska rate filing forms.)

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## **11. Additional Documentation Submitted With Rate Filings**

Companies are encouraged, and are often required, to submit documentation in addition to the mandatory Nebraska rate filing form. While the Department is generally willing to examine such documentation in almost any format, there are certain general principles applicable to such documentation. These are as follows:

- (a) Indicate whether data is in a policy year, calendar year or calendar-accident year form.
- (b) Indicate if premiums shown in premium/loss exhibits have been adjusted to current rate levels.
- (c) Indicate if losses have been trended and the amount of trend.
- (d) Indicate whether losses shown include allocated and/or unallocated loss adjustment expense.
- (e) Clearly show the requested change versus the indicated change. Provide a full explanation when the request differs significantly from the indication;
- (f) If a company has little data, but is basing its filing upon a perception of the rate levels of its major competitors, provide a listing of these competitors and compare the proposed rates to theirs. If a company chooses to make a "me too" filing, the Department requires

a comparison of the company's experience, operations, and expenses with its competitors as justification; and

- (g) For property insurance, Nebraska statutes require that we consider five years of experience, although we routinely request more when significant windstorm exposure is involved. It is the Department's practice to request at least five years of data for all lines of insurance.
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## **12. Excess Coverage Rates, "Guide (a)" Rates, Etc.**

The Department exempts rates for commercial excess/umbrella policies and "Guide (a)" rates from filing requirements based upon a provision in the rate and form law that allows us to exempt rates where it is not practical to develop meaningful rate manuals. Classes of insurance to which guide rating applies, if not clearly indicated elsewhere within CB-50, must be approved by the Department. We have had experiences where insurers will attempt to self-deem classes of insurance as eligible for "Guide (a)" treatment.

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## **13. Consent-to-Rate Procedures**

The Department recognizes that some risks, although deserving of insurance, represent greater exposure to loss than is contemplated by the company's manual rates. We believe the availability of insurance for these risks with licensed companies to be in the public interest. It is therefore the purpose of these guidelines to outline procedures that will not discourage the use of this rating mechanism, while still allowing us to monitor consent-to-rate activities and initiate inquiries where necessary.

For consent-to-rate insureds, the insurer shall develop a statement for the insured's signature that indicates the coverage that is affected, the amount of surcharge being imposed (a percentage, dollar amount or other accurate description) and a description of the unusual or hazardous characteristics of that policyholder. A sample consent-to-rate form is contained in the appendix. Please note that for most "ordinary" consent-to-rate situations, all we want is a brief explanation on the application that states the nature of the risk's deficiencies. Most of the time, only a sentence or two is necessary – we're not interested in the submission of detailed underwriting reports.

The consent-to-rate form shall be completed prior to signature by the insured, and no alterations, additions, or deletions shall be made after the form has been signed by the insured.

Provide the Department with two copies of the consent-to-rate form and a return envelope to which adequate postage has been affixed. If satisfactory, we will stamp this approved (for prior approval lines except for workers' compensation) or acknowledged (for "file and use" lines and workers' compensation) and return this copy for your records.

**Department procedures for prior approval lines except for workers' compensation and medical professional liability –**

Consent-to-rate applications will be rejected if we are given no more reason for a surcharge than the “insured’s inability to obtain coverage at standard rates,” simple “class of risk” comments, or those perceived by this Department to represent an attempt on the part of the company to obtain a generally higher rate level for those insureds who could well be described as “average” in their class.

Should the consent-to-rate application be disapproved or withdrawn, the policy rate shown, less consent-to-rate surcharges, shall be applicable. While the company may initially collect premiums in expectation of Department approval, they must refund excess premiums should such approval not be received. If a company decides to cancel because of rate disapproval, such cancellation must be in accordance with policy conditions as well as any applicable statutes.

**Department procedures for “file and use” lines, workers' compensation and medical professional liability –**

The Department will look at exactly the same things for these lines of insurance as it does for prior approval lines. The difference lies in the nature of Department action should a consent-to-rate application be unsatisfactory. If an application is found to be unsatisfactory, the insurer will be notified of this when its submission is acknowledged. The submission will not, however, be disapproved. As such, the insurer does not need to be reluctant to write consent-to-rate policies owing to a fear that it may end up being stuck with the account using unsurcharged rates.

Rather, an insurer that is found to have regular problems with its consent-to-rate applications will be placed on a prior approval basis for future consent-to-rate applications. Past experience has shown that, while consent-to-rate problems are not uncommon, that they are also reasonably amenable to correction. Take care to provide valid reasons for surcharged rates, and you will never need to have prior approval procedures applied (except for the lines – primarily personal lines – to which they always apply).

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## **14. Minimum Premium Ratemaking**

Minimum premiums may be used for those risks that do not generate a sufficient premium to cover the expenses of writing and servicing the coverage. Minimum premium requests will be examined to see if they are:

- (a) Intuitively reasonable in light of prevailing minimum premium practices for a particular line of insurance in Nebraska. Minimum premiums that appear reasonable and in line with prevailing practice will be approved;
- (b) Minimum premiums that are out of line with prevailing practice will be considered in accordance with reasonable actuarial principles; and

- (c) For prior approval lines, minimum premiums that appear unreasonable and where the filer is unable to provide information suitable for actuarial analysis will be disapproved.
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### **15. Public Access to Rate and Form Filings**

Under the prior rate & form act, rate and form filings were available for public inspection upon their receipt by the Department of Insurance. Under the new act, all rate and form filings and their supporting documentation are available for public inspection, but not until after the Department has completed its review and approved or disapproved the filing. There are exceptions – filings made by advisory organizations are open to public inspection upon their receipt and consent-to-rate filings are confidential.

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### **16. Private Passenger Auto Territorial Filing Requirements**

Section 44-7516.01(2) requires the ten largest private passenger automobile insurers to:

- (a) Make a “qualifying rate filing” with us with an effective date between 1/1/2002 and 7/1/2003. For the rate filing to “qualify,” it must contain justification for the bodily injury and property damage liability rate relativities used for rating territories that include any part of the city of Omaha. (The requirements do not apply to coverages other than liability.)
- (b) After the initial “qualifying rate filing” described in item (a), make additional “qualifying rate filings” at least once every three years.

If an insurer subject to these requirements fails to make an initial “qualifying rate filing” as provided by item (a), or if it goes more than three years between subsequent “qualifying rate filings,” then its rates for the city of Omaha will expire and it will be unable to write or renew business there until another “qualifying rate filing” has been approved.

Typical actuarial procedures for the determination of territorial rating relativities will qualify as adequate justification. Such procedures involve the display of suitably adjusted premiums and losses, the application of credibility, and a display showing current, indicated and selected relativities. Explanations should be provided if the selected relativities involve a greater change than indicated or go in the opposite direction from the indicated change. Customarily, additional explanation will not be required for movements in territorial relativities that are less than indicated (so-called “tempering”).

While the Nebraska Department will remain vigilant regarding differences between adjacent territories, it must be stressed this statute does not require the more complex type of analysis that is necessary to evaluate whether territorial boundaries are rational in the first place. All that an approved rate filing must contain to be a “qualifying rate filing” is justification of the rating relativities for the territories proposed by the insurer (which will often be the same as those



already in effect). Of course, if a rate filing contains a request to increase the differences between adjacent territories to the extent that we feel that the rating territories need to be redrawn, and the rate filing is disapproved as a result, then the filing cannot fulfill the requirements of the statute. So, while the statute only requires a “simple” justification of rating relativities, that does not mean that insurers can ignore the need to regularly review the boundaries of their rating territories.

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## **17. Notifications to be Given Private Passenger Auto Policyholders**

The Rate & Form Act, specifically §44-7516.01(1), contains two disclosure requirements that apply to private passenger auto insurance. This subsection states:

“On and after July 1, 2002, no private passenger automobile liability policy shall be delivered, issued for delivery, or renewed with respect to any motor vehicle licensed in this state unless accompanied by a disclosure showing (1) the location used to determine the rate charged to the named insured and (2) if any credit-based rating was used to determine the rate charged.” (The numbering shown in this quotation is not in the law. We added it to refer to the explanations that follow.)

- (1) For many insurers, the first of these two requirements will not require any work at all, because their policy forms and renewal certificates unambiguously show the garaging location(s) used to rate the vehicle(s) covered by the policy. For the law’s requirement to be fulfilled in this fashion, please note that the policy must be clear on this point. The fact that the policyholder’s address is shown on the declarations page will not suffice unless the policy makes it clear that this is the address that is used for rating purposes and the insurer makes reasonable provisions to disclose the address used for rating purposes when it is different than the address shown on the declarations page.

An insurer may also choose to comply with this law by using a separate enclosure that accompanies the policy or billing, or by changing the format of its billing statement. Note that there will be no need to file billing statements or other enclosures with the Department of Insurance. While changes to policies or endorsements that are made to comply with this law must be filed, we must stress that these are the only filings that should be made to comply with this law. If an insurer is not changing a policy form or endorsement, then there will be no need for us to give any kind of approval.

- (2) The applicability of this law’s credit-based rating disclosure is limited. It does not cover:
  - (a) When an insurer uses credit history or credit scoring to determine whether it will provide coverage for a potential policyholder, or
  - (b) When a group of insurers uses credit history or credit scoring to determine which of its member insurers will provide coverage, even though the member insurers may have different rate levels.

The disclosure requirement covers only those situations where an individual insurer has two or more rate levels potentially available to a policyholder and credit scoring or some other use of credit history is a factor used in determining which rate applies. In these situations, the insurer must make a clear affirmative statement to the policyholder that it has used credit history or credit scoring as a factor in determining the rate being charged. It will not suffice to merely include a blanket statement that credit scoring might have affected the rate – the disclosure must be an affirmative statement made only when credit scoring or credit history is used by the individual insurer in its pricing calculations.

While the law does not require the disclosure to indicate the effect that credit scoring had upon the individual policyholder, we expect that insurers that do not explain this will receive additional questions from their policyholders. Some may call the Department of Insurance instead. As such, we suggest that insurers will find their interests (and ours) to be served by making broader disclosures than the minimal disclosure required by this law.

Please note that, if requested, insurers must provide this additional information to affected policyholders. Section 44-7517 requires that, “within a reasonable time after receiving a written request and after receiving payment of such reasonable charge as it may require, every insurer ... shall furnish all pertinent information to any insured affected by a rate, premium, or prospective loss cost made by the insurer...” Insurers should also note that the disclosure requirement contained in this law does not replace or supercede disclosure requirements that may exist elsewhere (e.g., in the Fair Credit Reporting Act).

## APPENDIX

### NEBRASKA FILING TRANSMITTAL FORMS

There are three mandatory filing forms, two applying to rate filings and one applying to form filings:

- **NEBRASKA FILING FORM R1** – This is applicable for all rate filings except for rule or manual changes that lack appreciable rating impact. Documentation relating to the completion of this form is shown below.
- **NEBRASKA FILING FORM R2** – This form must be completed whenever a filing contains rate or rule changes.
- **NEBRASKA FILING FORM F1** – This form must be completed whenever a filing contains new or revised policies or forms.

Please reproduce adequate copies of these filing forms for your use. It is permissible and often advisable to reformat these forms if enough space is not provided, if more columns are needed, or if you would like to insert explanatory text. Please keep the information in the same order as we have it on these forms.

Long-time Nebraska filers will notice that this set of filing forms is a reduction from those that were required prior to February 2001. If, for some reason – like you’ve got the old forms hardwired into your computer – you find it easier to use the old forms, we will have no problem with that. The new forms simply contain a little less information and they don’t require that the same information be repeated quite as much. As such, we will have no problem accepting the old forms, but we expect that most users will want to switch to the new forms.

In addition, the **NEBRASKA CONSENT-TO-RATE FORM** is offered for illustrative purposes. The nature of the information contained on the form is mandatory for consent-to-rate submissions, but the form and its format is optional.

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#### EXPLANATION OF NEBRASKA FILING FORM R1

##### Applicability:

This explanation applies to the Nebraska Filing Form R1. This is a three-page form with the form designation, “NEBRASKA FILING FORM R1.” File this when you use an advisory organization’s loss costs, or when you make an independent filing.

General:

As a practical matter, we are much more likely to need additional documentation when filings affect substantial premium volumes or when the filing or the factors submitted to support the filing are out of the ordinary. Filers should make an effort to supply documentation in addition to the minimal amount contained on these filing forms when the filing is unusual in some respect or when significant premium volumes are involved. Please note that it is not acceptable to omit filing forms from your submission simply because much or all of the information in the filing forms is already contained in the rest of your filing.

When a company group that has designated a lead company makes a filing that is applicable to more than one of its member companies, the Department saves only one copy of the filing for all members of the group to which the filing applies. Therefore, fill out only ONE form for each filing, regardless of how many companies are involved. Do NOT fill out one form for each company involved, unless you are filing different loss cost multipliers for different companies.

**COMMENTS ON PAGE 1 OF NEBRASKA FILING FORM R1**

Line #'s

- 2 This is the code number which the Department has assigned to your company. It is different from your NAIC code. Please contact us if you don't know what your number is; then save the number with your copies of these forms.
- 5A Provide a generic reference that allows us to quickly identify the type of insurance that is involved. This may or may not directly correlate to an annual statement line of insurance.
- 6 This number does not require actuarial precision. Rather, we want a ballpark estimate of the premium volume that you expect to write for this program next year, presuming that the proposed filing is approved.
- 7 This entry is for the convenience of those companies that use an internal filing reference number. We encourage this practice, but we do not require it. If you don't use an internal filing reference number, then just leave this blank.
- 9 This line exists to aid us in the enforcement of our laws that require insurers to report their experience to a statistical agent.
- 13 Loss cost multiplier filings made by insurers that have loss costs filed on their behalf by an advisory organization will be automatically applied to new loss cost filings by the advisory organization cited. This option allows you to adopt advisory organization loss costs as of the effective date cited by the advisory organization, or you can specify a lag period such as 30 or 60 days. You can choose different dates for new and renewal

business, but the difference in lag time between new and renewal business cannot be more than 60 days.

Please note that the Department does not provide the option to delay (or decline) the use of regular loss cost revisions for workers' compensation insurance as they are made by the National Council on Compensation Insurance (NCCI). The reason for this position relates to classification relativities and experience rating factors, not to any desire to mandate that insurers accept the NCCI's overall loss cost level changes. Insurers are free to file changes to loss cost multiplier levels to coincide with the effective date of NCCI changes or at any other time

### **COMMENTS ON PAGE 3 OF NEBRASKA FILING FORM R1**

#### Line #'s

- 7 Loss costs are an estimation of the average loss and LAE that will be incurred on a prospective basis per unit of exposure for all companies reporting data to the advisory organization. Actual incurred losses for individual companies may be different than those projected for the advisory organization's "average" book of business for a number of reasons. Trend or development factors might be wide of the mark and year-to-year results will vary randomly from company to company. In addition to variation from these causes, there are differences from company to company that are expected because of different marketing and underwriting practices. If a company is expected to write an "average" mix of business and experience and judgment rating (Nebraska's  $\pm 40\%$ ) is not involved, then this factor should be 1.0. This would mean that the company expects its incurred losses to match those of the market in general. A "preferred" writer may need a lower factor, such as .85, and a substandard writer may need a higher factor, such as 1.15.
- 7(d) This incorporates risk load into the loss cost multiplier calculation. Risk load is customarily a consideration whenever increased limits tables are used for a line of insurance. Thus, it is relevant for liability lines but not for property lines. An advisory organization's increased limits filing with risk load will increase premiums more than simply the expected increase in losses for higher limits of liability. For example, if a higher limit of liability is expected to generate 60% higher losses, then the advisory organization might file an increased limits factor of 1.70, not 1.60. The difference between 1.70 and 1.60 is the risk load. If realized, this additional revenue will customarily become an additional margin of profit. Risk load has often been a point of confusion as very few other states (if any?) incorporate recognition of risk load in their filing forms. Yet the amount is usually material ( $>5\%$ ), and we believe that it is important that insurers understand that this potential source of revenue exists owing to the use of increased limits tables.

## NEBRASKA FILING FORM R1

1. Company name(s). For groups, show the lead company's name first.	2. NE ID#	3. State of Domicile

4. Name & title of contact person: \_\_\_\_\_  
Phone number: \_\_\_\_\_ Fax number: \_\_\_\_\_  
E-mail address: \_\_\_\_\_
5. A. Generic line or type of insurance: \_\_\_\_\_  
B. Your trade name, if any (e.g., Protection-Pak): \_\_\_\_\_
6. Give company's estimated premium volume for this line or type of insurance next year. (If under \$50,000, simply indicate, "under \$50,000") \_\_\_\_\_
7. Company filing number: \_\_\_\_\_
8. Advisory organization name and filing reference number (if applicable): \_\_\_\_\_  
\_\_\_\_\_
9. To what statistical agent does the company submit premium and loss experience for this line of insurance? \_\_\_\_\_
10. Is this a revision or a new program? \_\_\_\_\_
11. Effective date of this filing: \_\_\_\_\_  
**Note: Nebraska Rule 16 allows a maximum of 60 days between new and renewal effective dates.**
12. Are there new or revised forms that apply to this rate filing? If so, are they part of this filing?  
\_\_\_\_\_ If not, when will they be filed? \_\_\_\_\_

### ITEM 13 IS APPLICABLE TO LOSS COST MULTIPLIER FILINGS ONLY

13. Show the delay, if any, that shall automatically apply to your implementation of future loss cost filings by the advisory organization: \_\_\_\_\_  
**NOTE 1: No delays are allowed in the adoption of workers' compensation loss costs.**

1. Estimated effect of the filing:

Coverage Subline	Annual Written Premium	Percent Change Requested	Premium Change
Totals			

2. Past loss experience:

<u>Year</u>	<u>Earned Premium at Collected Rate Level</u>	<u>Earned Premium at Current Rate Level</u>	<u>Incurred Loss &amp; LAE</u>
Totals			

**NOTE: Incurred losses are to include all loss adjustment expense and are to be developed to an ultimate basis. Do not include trends in either premiums or losses within this exhibit.**

3. Rate level change history:

Effective Date	Rate Level Change

The rate level changes should be overall changes for the sublines and territories for which rate level changes are being proposed in this filing.

4. Show expected expenses for this line of insurance. ***(Attach documentation if these differ from the filer's actual past expenses by more than two percent)***

- |    |                                      |        |
|----|--------------------------------------|--------|
| a) | Commission Expense                   | _____% |
| b) | Other Acquisition Expense            | _____% |
| c) | General Expense                      | _____% |
| d) | Taxes, Licenses, & Fees              | _____% |
|    | <b>(Do not include income taxes)</b> |        |
| e) | Total                                | _____% |

5. Give target combined ratio\*: \_\_\_\_\_%

**COMPLETE THIS SECTION IF AN INDEPENDENT RATE FILING**

6. Determination of indicated rate level change:

- |    |   |       |
|----|---|-------|
| a) | Projected Loss Ratio at Current Rate Level  | _____ |
| b) | Total Expenses                              | _____ |
| c) | Target Combined Ratio*                      | _____ |
| d) | Indicated Rate Level Change $\frac{a}{c-b}$ | _____ |
| e) | Average Filed                               | _____ |

**COMPLETE THIS SECTION IF A LOSS COST FILING**

7. Determination of indicated loss cost multiplier:

- |    |  |       |
|----|--|-------|
| a) | Loss Cost Modification**   | _____ |
| b) | Total Expenses (e.g., 0.30 for 30%)  | _____ |
| c) | Impact of Minimum Premiums, Expense<br>Constants & Size of Risk Discounts*** | _____ |
| d) | Risk Load****  | _____ |
| e) | Target Combined Ratio*   | _____ |
| f) | Indicated $\frac{a}{cd(e-b)}$  | _____ |
| g) | Average filed*****   | _____ |

\* ***The target combined ratio must reflect a consideration of investment income.***

\*\* ***Show expected relation of your loss costs to the loss costs filed by the advisory organization.  
If the same, then 1.0; if 15% less, then .85, etc.***

\*\*\* ***Give the overall impact of any expense constants, size of risk discounts, or minimum premiums  
that you use. (A 3% impact would be 1.03; a -3% impact would be 0.97.)***

\*\*\*\* ***For example, enter 1.0 for no risk load, 1.065 for 6.5% risk load, etc.***

\*\*\*\*\* ***If the average filed is significantly different than indicated, please provide an explanation.***



# NEBRASKA FILING FORM F1

## PROPERTY – CASUALTY FORMS TRANSMITTAL SUPPLEMENT Sheet for Multiple Form Filing

Form Title	New Form #	Replaced Form #	Type of Form	Line of Insurance	M - Mandatory O - Optional	Description of Form	R - Restricts B - Broadens C - Clarification

**NEBRASKA FILING FORM R2**  
**PROPERTY - CASUALTY FILING**  
**RULE AND RATE PAGE TRANSMITTAL**  
**Sheet for Listing and Replacing of Manual Pages**

Manual Division: \_\_\_\_\_

New Page Number	Edition or Approval Date	Replaced or Withdrawn Page Number	Edition or Approval Date

## NEBRASKA CONSENT-TO-RATE FORM<sup>1</sup>

Name & Mailing Address of the Policyholder:

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Insurance Company: \_\_\_\_\_

Description of the substandard, unusual or hazardous condition that necessitates the use of a rate or premium higher than that which is filed by the insurer<sup>2</sup>:

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The rate or premium increase<sup>3</sup>: \_\_\_\_\_

Policyholder signature<sup>4</sup>: \_\_\_\_\_

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<sup>1</sup> Consent-to-rate filings must be made (two copies, please) for every usage of consent-to-rate, but this is only a sample consent-to-rate form. As long as the information contained on this form is contained on a consent-to-rate submission, it can pass muster. The usage of this specific form is not required.

<sup>2</sup> An exhaustive explanation is not necessary. We simply need a clear indication of the reason for the increased rate or premium, which also gives us an assurance that the policyholder has a clear understanding of the situation. A quick warning – reasons that merely refer to a policyholder’s inability to obtain coverage at standard rates, or comments that essentially equate to “class of risk” are not acceptable.

<sup>3</sup> Express the surcharge in the manner in which it has been calculated and is most easily expressed. For instance, if the premium involves a flat \$500 surcharge, then state that the premium has been surcharged \$500. If it has been increased 50%, then state that. Don’t bother with trying to convert a flat amount into a percentage or a percentage into a dollar amount – it isn’t necessary.

<sup>4</sup> The signature by the policyholder or an authorized representative of the policyholder (NOT the insurance agent) must be made after the rest of the information has been completed.